



**RESOLUTION TITLE: GASTON COUNTY BOARD OF COMMISSIONERS
LEGISLATIVE REQUEST: TO OPPOSE PROPOSED
LOCAL GOVERNMENT ZONING REFORM, HB401/SB349,
2021 NORTH CAROLINA LEGISLATIVE SESSION**

- WHEREAS, for generations the State of North Carolina has allowed local government to regulate local development; and,
- WHEREAS, counties in the State of North Carolina have their own unique characteristics and challenges so that "one size" does not "fit all," and statewide zoning mandates thus may have unintended negative consequences for the residents of the State; and,
- WHEREAS, any new unfunded mandates by the State, particularly during a time when local revenues are under pressure due to Covid-19 and other factors affecting local economies, may force communities such as Gaston County to either increase property taxes or decrease services critical to their residents in order to follow these mandates; and,
- WHEREAS, HB401/SB349 is now pending in the North Carolina General Assembly, and would force municipalities to allow duplexes, triplexes, quadplexes, and townhouses into all residential zones, including all low-density zoning districts, for the stated purpose of expanding housing opportunities; and,
- WHEREAS, HB401/SB349 exempts residential areas in which private restrictive covenants apply, thus differentiating between subdivisions such as gated communities and the neighborhoods without such protections, in essence protecting the wealthy by exposing middle and low income residents to incompatible development dictated by state government; and,
- WHEREAS, HB401/SB349 further allows restricting of these types of homes in areas served by a local government water system, government sewer system, public water system, or a wastewater collection or treatment facility, further increasing the likelihood that only areas under County jurisdiction will be used to accommodate this Bill; and,
- WHEREAS, although HB401/SB349 has reportedly been endorsed by "affordable housing" proponents as a way to increase supply and decrease costs, in actuality there is nothing in the Bill that actually controls costs; and,
- WHEREAS, HB401/SB349 likewise mandates the allowance of "one accessory dwelling," which can consist of a duplex, on each lot on which there is a single family residence, circumventing

all customary approval processes such as conditional district zoning, and trumping all local parking requirements and utility approval protocols without regard to the impacts of a potential tripling of density; and,

WHEREAS, HB401/SB349 has the potential to fundamentally change most neighborhoods in Gaston County and accelerate the disruption of the lives of its citizens; and,

WHEREAS, HB401/SB349 allows deficient applications to nevertheless vest development rights, undermining the ability of local jurisdictions to react to changes within their communities; and,

WHEREAS, HB401/SB349, by using terms that are undefined and vague, makes expensive future litigation likely to create certainty around the meaning of those terms; and,

WHEREAS, HB401/SB349 shifts financial responsibility for a developer's attorneys' fees onto the County whether or not the County's decisions have been made in good faith in a manner seeking to protect the common good; and,

WHEREAS, HB401/SB349 prohibits a County from considering traffic as evidence to preclude it from zoning approval regardless to whether or not they believe that the traffic generated by the project poses a danger to public safety, as long as a traffic impact study has been approved by the North Carolina Department of Transportation; and,

WHEREAS, HB401/SB349, under the guise of creating "affordable housing," is actually usurping local zoning authority and if passed, will undermine the long-term stability of Gaston County for its residents, betraying the promises of zoning that residents have relied upon in making their most important financial investments, the purchase of their homes; and,

WHEREAS, HB401/SB349 proposes significant changes to Chapter 160D (local planning and development regulations) of the General Statutes that significantly reduce the autonomy of local governments in establishing and enforcing local zoning and land use regulations through a Zoning, Unified Development, Land Development, or comparable ordinance, and the statewide regulations proposed in the Bills would obstruct a local government's ability to thoughtfully plan for growth and evaluate development proposed in its own community; and,

WHEREAS, HB401/SB349 would eliminate single-family zoning by allowing for middle housing types (defined as residential duplexes, triplexes, quadplexes, and townhouses) in areas zoned for residential use and mandating the allowance of accessory dwelling units in all residential zones, and while such mandates would increase housing supply statewide, there is no guarantee of housing affordability, or neighborhood compatibility; and,

WHEREAS, HB401/SB349 would significantly alter the development review and development appeals process to the disadvantage of a local authority with specific examples including: precluding using traffic as a basis for denying a development permit; barring local governments from conditioning the acceptance or processing of a permit application unless specifically statutorily authorized; mandating the acceptance of permit applications that are incomplete; and authorizing a court to award reasonable attorneys' fees and costs to a party successfully challenging the actions of a local government; and,

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WHEREAS, HB401/SB349 directs local governments to adopt land use ordinances and regulations or amend their comprehensive plans to implement the provisions of Part I of the Bill by October 1, 2021, at a time when local governments are investing significant time and resources to comply with new Chapter 160D requirements recently enacted by the General Assembly (S.L. 2020-25), and the proposed bills would significantly alter those ongoing planning processes, waste government resources, and erode public trust; and,

WHEREAS, if the intent of the Bill is to increase the statewide housing supply, then there should be a rigorous analysis of the local fiscal, environmental, health, and service impacts, both positive and negative, and reasonable solutions, including funding, included in the Bill to mitigate potential impacts.

NOW, THEREFORE, BE IT RESOLVED by the Gaston County Board of Commissioners, as follows:

1. That the General Assembly not adopt either HB401 or SB349
2. That, if passed, the Governor, the Honorable Roy Cooper, veto these measures
3. That the County Manager employ the County's lobbyist(s) to work to prevent the passage of these bills
4. That a copy of this Resolution be sent to our elected State representatives and the Governor
5. That the County Manager take whatever additional steps she deems prudent.

BE IT FURTHER RESOLVED that copies of this Resolution be forwarded to the Local Legislative Delegation to the North Carolina General Assembly and the North Carolina Association of County Commissioners.